

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)	
)	
vs.)	Case No. 16-cr-10094-LTS
)	
ROSS MCLELLAN)	<u>FILED UNDER SEAL</u>
)	
Defendant.)	
)	

**STATE STREET BANK AND TRUST COMPANY’S MOTION TO QUASH RULE 17(c)
SUBPOENAS SERVED BY DEFENDANT ROSS MCLELLAN**

Pursuant to Federal Rule of Criminal 17(c)(2), State Street Bank and Trust Company (“State Street”), a non-party in the above-captioned matter, respectfully requests that the Court quash four subpoenas *duces tecum* that Defendant Ross McLellan served on State Street on May 17, 2017 (the “subpoenas”).

The grounds for this motion are fully set forth in the accompanying memorandum of law, filed contemporaneously herewith. In summary, the subpoenas seek the production of a voluminous number of privileged documents based on the unsupported assertion that State Street waived privilege through the production of certain reports and witness interview memoranda to a regulator in the United Kingdom. The lion’s share of the documents that McLellan claims causes a waiver were not privileged, and to the extent any of them contained some bit of privileged information, English law does not provide for a subject matter waiver. Neither would U.S. law as the First Circuit has held that extrajudicial disclosures of privileged information do not was privileges over other documents.

McLellan's subpoenas should also be quashed for the independent reason that they are precisely the type of "discovery" requests the Supreme Court has held are not permitted under Federal Rule of Criminal Procedure 17(c). *See United States v. Nixon*, 418 U.S. 683, 698 (1974). McLellan's motions to issue the subpoenas failed to make the necessary factual showing of relevance, admissibility, and specificity that are required by *Nixon* and its progeny.

WHEREFORE, State Street respectfully requests that this Court quash in their entirety the subpoenas McLellan served on State Street on May 17, 2017.

Respectfully submitted,

STATE STREET BANK AND TRUST
COMPANY

By its attorneys:

/s/ John J. Butts

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Dated: June 12, 2017

CERTIFICATE OF COMPLIANCE WITH LOCAL RULES 7.1 AND 112.1

I hereby certify that, pursuant to Local Rules 7.1(a)(2) and 112.1, counsel for State Street conferred with counsel for Ross McLellan concerning the subject matter of this motion. We were unable to reach an agreement.

/s/ John J. Butts

John J. Butts

CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2017, a copy of the foregoing was served via email to the registered participants of the ECF system in the above-captioned matter. In addition, an advance copy was provided by email to counsel for Ross McLellan on June 9, 2017.

/s/ John J. Butts

John J. Butts